WP(C) 5018/2007
BEFORE
HON'BLE MR. JUSTICE RANJAN GOGOI

Heard Mr S Ali, learned counsel for the petitioner; Mr S Samaria, learned Standing Counsel, GMC and Mr B Sarma, learned counsel for the respondent No.5/ caveator.

The caveat is discharged.

The petitioner seeks to challenge the order dated 14.9.2007 passed by the Commissioner, Gauhati Municipal Corporation by which the trade licence granted to the petitioner for running the business of Bar cum-- Restaurant has been cancelled.

A reading of the order dated 14.9.2007 would go to show that three primary grounds have been assigned for the cancellation made. Firstly, it has been recorded that the trade licence of the petitioner has not been renewed. Secondly, it is recorded that the petitioner does not have the renewed tenancy agreement with the landlord on whose premises the business is being carried out. Thirdly, it has been recorded that there are public complaints regarding commission of nuisance and anti social activities in the business premises run by the petitioner.

In so far as the first ground of cancellation is concerned, the Court must take note of the fact that if the trade licence has not been renewed, the cancellation of a non-existent licence will hardly be necessary. In so far as the second ground is concerned, no provision of the Act or the bye laws have been placed before the Court empowering any authority under the Act to take into account the terms of a tenancy while granting or renewing a trade licence.

In so far as the third ground for the impugned cancellation is concerned, admittedly, the petitioner was not heard prior to the order passed. Neither was any show cause notice proposing cancellation of the trade licence was issued to the petitioner prior to the impugned action.

In the above view of the matter and having regard to the provisions contained in Section 378 of the Gauhati Municipal Corporation Act, 1971, the Court is of the view that without foreclosing any of the other issues arising in the writ petition as noticed above, the order dated 14.9.2007, should be interfered with, with liberty to the authorities of the Corporation to proceed in the matter in accordance with law, if so advised. It is, therefore, ordered accordingly.

This disposes of the writ petition.